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PATENT

Customer No. 22,852
Attorney Docket No. 06478-1447-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Juergen ROEMISCH et al.) Group Art Unit: 1614
)
Application No.: 10/785,414) Examiner: Michael E. Szperka
)
Filed: February 25, 2004) Confirmation No. 8362
)
For: USE OF ANTITHROMBIN III FOR)
THE PROPHYLAXIS AND)
THERAPY OF DISEASES)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated August 22, 2005, the Office required the election of a species under 35 U.S.C. § 121. The Office requested that the Applicants elect a single, defined disease or disorder in response to this election requirement. See Office Action at page 2. Applicants provisionally elect the disease "systemic lupus erythematosus," with traverse. A listing of all claims readable on this election includes at least claims 9, 11, 12, and 27-29.

Applicants traverse the election of species requirement on the ground that the pending claims are not directed to an unreasonable number of species. See 37 C.F.R. § 1.146.

Section 803 of the M.P.E.P. states that "[i]f the search and examination of the entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

(M.P.E.P. § 803, emphasis added.) Applicants respectfully submit that this policy should apply to this application in order to avoid unnecessary delay and duplicative examination.

Applicants submit that this search can be made without undue burden because a literature search for these species would be largely coextensive. A thorough search for a method of reducing chemokine-migration in an individual suffering from an inflammatory disease or disorder with antithrombin III for one specific disease should retrieve similar results for other diseases. Accordingly, Applicants respectfully request the restriction to be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 13, 2005

By: Carol P. Einaudi
Carol P. Einaudi
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